

REMARKS/ARGUMENTS

Initially, Applicant would like to thank Examiner Kavanaugh for granting an interview and for his time spent during the interview.

Claims 1-18 are pending in the application.

Claims 1-6 are rejected under 35 U.S.C. §112, second paragraph for not providing the corresponding structure underlying the 35 U.S.C. §112, sixth paragraph invocation.

As discussed in the interview, the "means for guiding a heel of a user's foot as the user inserts the foot into a shoe" is disclosed on page 8, lines 24-32, for example. Specifically, the structure underlying the means is a flexible, resilient material having a back portion and side portions that flex to accommodate a user's ankle during the process of putting the shoe on. The back portion and the side portions are preferably contoured so as to be a close fit into the interior of the upper of the shoe. On page 5, lines 9-15, the disclosed shoe horn attachment is contoured to fit different profiles of the heel and contoured to fit into either a left or right shoe. Page 7, lines 8-9 further disclose that the back portion has an upper back portion 2a that is shaped in the manner of a conventional shoe horn. Accordingly, Applicant believes that the aforementioned discloses adequate structure to support a 35 U.S.C. §112, sixth paragraph analysis.

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Claims 1-3 are rejected as being clearly anticipated by STURLAUGSON 4,608,769.

Reconsideration and withdraw of the rejection are respectfully requested because the reference does not disclose or suggest means for guiding the heel of the user's foot as the user inserts the foot into the shoe as recited in claim 1 of the present application.

As noted at the interview, Applicant has shown why the claim language properly invokes 35 U.S.C. §112, sixth paragraph. As also noted at the interview, the function of guiding the user's foot into the shoe is identified. As set forth above, the structure that corresponds to the recited function is explicitly stated. Accordingly, Applicant believes that 35 U.S.C. §112, sixth paragraph is properly invoked. Therefore, the Examiner must find that (1) the prior art element performs the claimed function (2) the prior art is not excluded by any explicit definition provided in the specification from the equivalent, and (3) the prior art element is an equivalent. The Examiner should provide an explanation and rational in the Official Action as to why the prior art element is equivalent to the claimed means.

As noted at the interview, page 8, lines 24-27 of the present application disclose that the structure that performs the claimed function (back portion 2 and side portions 10) must flex to accommodate the user's ankle during the process of putting the

shoe on. Accordingly, the cited reference must also flex to accommodate the user's ankle during the process of putting the shoe on to be an equivalent structure.

As noted at the interview, column 3, lines 54-56 of STURLAUGSON teaches a rigid material and does not disclose or suggest that the material flexes to accommodate the user's ankle during the process of putting the shoe on. Accordingly, the rigid material and thus the counter 6 of STURLAUGSON made of this material is not an equivalent structure.

In addition, page 3, lines 5-8 of the present application state that if a person should become disabled they may fit a shoe horn attachment of the invention to each of their existing shoes, thereby avoid the need to buy special shoes of the type disclosed in U.K. Patent Application No. 9018750.1.

U.K. 9018750.1 teaches an integral shoe horn similar to STURLAUGSON. Specifically, column 2, lines 43-47 of STURLAUGSON disclose that a unique feature is that a somewhat rigid shoe horn shaped counter is integrated with the quarter portion of the shoe. Accordingly, STURLAUGSON teaches an integral shoe horn.

Therefore, STURLAUGSON does not disclose an equivalent structure and is also excluded by any explicit definition provided in the specification from the equivalent based on the shoe horn of STURLAUGSON being integral with the shoe.

Claims 2 and 3 depend from claim 1 and further define the invention and are also believed patentable over STURLAUGSON.

Claims 1-4 and 7-10 and 13 are rejected as anticipated by SESSA UK 2235360.

Reconsideration and withdrawal of the rejection are respectfully requested because the reference does not disclose or suggest means for guiding the heel of the user's foot as the user inserts the foot into the shoe as recited in claim 1 of the present application.

As noted in the interview, SESSA discloses a foldable tab portion 52. This tab portion is gripped by a user between the user's thumb and forefinger to provide leverage when putting on a shoe. The tab portion does not flex to accommodate the user's ankle during the process of putting the shoe which in turn causes the upper of the shoe to flex slightly backwards allowing the user to insert their foot into the shoe. In fact, if a user were to put the shoe on without gripping the tab portion, the tab portion would fold into an unwanted position inside the shoe.

In addition, the abstract and page 6, line 5 of SESSA teach an integral shoe horn. The comments above regarding the 35 U.S.C. §112, sixth paragraph analysis as it applies to STURLAUGSON also applies to SESSA.

Claims 2-4 depend from claim 1 and further define the invention and are also believed patentable over SESSA.

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Regarding claim 7, claim 7 recites a flexible resilient upper back portion extending obliquely from the back portion substantially outside of a rim of a shoe of a user when the attachment device is attached to the shoe of the user, said upper back portion being flexibly displacable to guide a heel of the user when a foot of the user is being inserted into the shoe and a fastening device on at least one of the back, left and right portions for readily detachably securing the attachment device to the shoe of the user.

As set forth above, the tab portion of SESSA is foldable and would fold inside the shoe and would not guide the heel of a user and would not flexibly displace when a foot of a user is being inserted into a shoe as recited in claim 7 of the present application.

In addition, as set forth above, the tab portion of SESSA is integral with the shoe of SESSA and is not readily detachable as further recited in claim 7.

Claims 8-10 and 13 depend from claim 7 and further define the invention and are also believed patentable over SESSA.

Claims 1-6 are rejected as anticipated by MANCINELLI 4503628. This rejection is respectfully traversed.

As noted above, claim 1 is written in 35 U.S.C. §112, sixth paragraph format and recites a means for guiding a user's foot as a user inserts the foot into the shoe. As seen in Figure

1 of the present application, the means for guiding includes upper back portion 2a that protrudes substantially above the rim 4 of the shoe.

As noted at the interview, the flange 26 of MANCINELLI et al. conforms to the shoe upper to form a channel 28 in which the shoe upper is engaged. The flange of MANCINELLI et al. does not protrude substantially above the rim and thus is not an equivalent to the claimed means. In addition, lines 16-26 of the abstract of MANCINELLI et al. disclose that the insert of MANCINELLI et al. rigidifies the shoe so that a foot can be placed in the shoe without a shoe horn. Accordingly, MANCINELLI et al. do not perform the recited function of guiding the heel of a user's foot as the user inserts the foot into the shoe.

Claims 2-6 depend from claim 1 and further define the invention and are also believed patentable over MANCINELLI et al.

Claims 7-9, 11-12 and 14-18 are rejected as unpatentable over GERHART 1,012,253 in view of WHYTE 5,901,468. This rejection is respectfully traversed.

Claim 7 recites that a flexible resilient upper back portion extends obliquely from a back portion substantially outside of a rim of a shoe of a user when the attachment device is attached to the shoe of a user, the upper back portion being flexibly displacable to guide a heel of the user when a foot of the user is being inserted into the shoe and a fastening device

on at least one of the back, left and right portions for readily detachably securing the attachment device to the shoe of the user.

As noted at the interview, cuff-like portion 8 of GERHART folds over to conform to the rear of the shoe as seen in Figure 4 of GERHART and is not a flexible resilient upper back portion that extends obliquely from a back portion substantially outside of a rim of a shoe of a user that is flexibly displacable to guide a heel of the user when a foot of the user is being inserted into the shoe as recited in claim 7 of the present application. Specifically, page 1, lines 89-103 of GERHART teach that it is necessary that the cuff-like portion 8 be folded down so that a shoe horn does not disarrange the heel lining. GERHART further teaches using their lining with a shoe horn. Accordingly, the lining of GERHART does not function as a shoe horn and could not be a shoe horn attachment having a flexible resilient upper back portion that extends obliquely from a back portion substantially outside of a rim of a shoe of a user that is flexibly displacable to guide a heel of the user when a foot of the user is being inserted into the shoe as recited in claim 7 of the present application.

WHYTE is only cited for the teaching of a double-sided adhesive tape for detachably removing a pad insert. WHYTE does not teach or suggest a flexible resilient upper back portion that

extends obliquely from a back portion substantially outside of a rim of a shoe of a user that is flexibly displacable to guide a heel of the user when a foot of the user is being inserted into the shoe as recited in claim 7 of the present application.

The above noted feature is missing from each of the references, is absent from the combination and thus is not obvious to one of ordinary skill in the art.

Claims 8, 9 11 and 12 depend from claim 7 and further define the invention and are also believed patentable over the cited prior art.

Claim 14 recites an upper back portion extending from the back portion substantially outside of a rim of the shoe of the user when the attachment is attached to the shoe of the user, the upper back portion being flexibly displacable to guide a heel of the user when a foot of the user is being inserted into the shoe, the device being readily removable such that when a foot of a user is in the shoe, the device remains in place and when the foot of the user is removed from the shoe, the device is readily removable. The comments above regarding claim 7 are equally applicable to claim 14.

Claims 15-18 depend from claim 14 and further define the invention and are also believed patentable over the cited prior art.

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In view of the present amendment and foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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